



6237, in the District Court of Oklahoma County, Oklahoma.<sup>1</sup> AmTrust was served on November 18, 2015,<sup>2</sup> and Sequoia was served on November 25, 2015.<sup>3</sup>

2. Defendants Sequoia and AmTrust jointly file this Notice of Removal within the thirty-day time period required by 28 U.S.C. § 1446(b). Accordingly, this Notice of Removal is timely.

## **II. Diversity of Citizenship**

3. Removal is proper under 28 U.S.C. § 1332(a)(1) because there is currently a complete diversity of citizenship over Plaintiff's claim.

4. Plaintiff Bearing Tree is a limited liability corporation formed in the State of Oklahoma, with its principal place of business in the State of Oklahoma.<sup>4</sup> Upon information and belief, the sole member of Bearing Tree is Jacob Carroll.<sup>5</sup> Upon information and belief, Mr. Carroll is a citizen of the State of Oklahoma. Therefore, for purposes of diversity, Bearing Tree is a corporate citizen of Oklahoma. *See Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1237 (10th Cir. 2015)(the citizenship of an LLC is determined by the citizenship of all of its members).

5. Defendant Sequoia is an insurance company incorporated in the State of California with its principal place of business in the State of New York. For purposes of diversity, Defendant Sequoia is a corporate citizen of California and New York and not

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<sup>1</sup> See Exhibit 1, Plaintiff's Petition.

<sup>2</sup> See Exhibit 2, returned summons for AmTrust.

<sup>3</sup> See Exhibit 3, returned summons for Sequoia.

<sup>4</sup> See Exhibit 4 – certified copy of Bearing Tree Land Surveying, LLC's Annual Certificate Limited Liability Companies filed with the Oklahoma Secretary of State.

<sup>5</sup> See Exhibit 5 – certified copy of Bearing Tree Land Surveying, LLC's Articles of Organization, filed with the Oklahoma Secretary of State.

Oklahoma. *See Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010)(a corporation is deemed to be a citizen of any state in which it is incorporated and of the state where it has its principal place of business).

6. Defendant AmTrust is an insurance services company which provides adjusting services. It is incorporated in the State of Delaware with its principal place of business in the State of New York. For purposes of diversity, Defendant AmTrust is a corporate citizen of Delaware and New York and not Oklahoma.

7. Based on the foregoing, the parties are completely diverse within the meaning of 28 U.S.C. §1332.

### **III. Venue is Proper**

8. Venue in this district is proper in the United States District Court for the Western District of Oklahoma, Oklahoma City Division, under 28 U.S.C. §§ 116(c) and 1446(a) in that the Western District of Oklahoma encompasses Oklahoma County, Oklahoma and is “the district and division embracing the place where such action is pending.”

### **IV. Facts Supporting Grounds for Removal**

9. This is an insurance coverage action that Plaintiff brought against Sequoia (the company that issued the policy) and AmTrust (the company that adjusted the claim) alleging breach of contract and breach of the implied covenant of good faith and fair dealing. Sequoia issued a businessowner’s enterprise property insurance, policy number SBP219643-2, to its insured, Bearing Tree. The policy—subject to its terms and

conditions—provided potential coverage for the commercial property at 4201 N. Barnes Ave., Oklahoma City (Oklahoma County), Oklahoma.

10. Plaintiff presented a claim to Sequoia for failure of Bearing Tree's computer server and subsequent loss of computer data (the failure reportedly occurred on November 20, 2013).

11. At issue in this lawsuit is what portion, if any, of the alleged loss is covered under the Sequoia policy.

## **V. Amount in Controversy**

12. Plaintiff's suit arises out of a dispute following a loss of computer data in Oklahoma County, Oklahoma. According to the Plaintiff's Petition, Plaintiff seeks monetary relief of over \$75,000.00.<sup>6</sup> Therefore, the amount in controversy exceeds the \$75,000 threshold required to invoke this Court's jurisdiction. 28 U.S.C. § 1332(a). *See Chieftain Royalty Co. v. Apache Corp.*, 2013 WL 501351, at \*1 (W.D. Okla. Feb. 8, 2013)(citing *Laughlin v. Kmart Corp.*, 50 F.3d 871, 873 (10th Cir. 1995)(determination of amount in controversy required by 28 U.S.C. § 1332 is satisfied by examining the Complaint, or, if damages are not expressly quantified therein, by examining the Notice of Removal)).

## **VI. The Removal is Procedurally Correct**

13. Pursuant to 28 U.S.C. § 1446(a), the Plaintiff's Petition is included in the index attached hereto as Exhibit 1.

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<sup>6</sup> See Exhibit 1.

14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing will be given to Plaintiff, the adverse party.

15. Pursuant to 28 U.S.C. § 1446(d), promptly after Sequoia and AmTrust file this Notice of Removal, a true copy will be filed with the Clerk of the Oklahoma County District Court, the state court from which this action was removed.

16. Pursuant to this Court's Local Rule 3.1, a completed civil cover sheet is attached hereto as Exhibit 6.

17. Pursuant to this Court's Local Rule 81.2(a), a copy of the docket sheet in the state court action is attached hereto as Exhibit 7.

## **VII. Relief Requested**

18. This notice was filed timely. The amount in controversy exceeds \$75,000. Complete diversity of citizenship exists as to Plaintiff (including all members of Bearing Tree Land Surveying, LLC) and Defendants. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332. Accordingly, the action is properly removed pursuant to 28 U.S.C. § 1441.

19. Defendants respectfully request that the United States District Court for the Western District of Oklahoma, Oklahoma City Division, file the Notice of Removal, assume jurisdiction of this lawsuit, and issue all such further orders and processes as may be necessary.

Respectfully submitted,

/s/ Michael C. Felty

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*Request for admission to the Western District of  
Oklahoma will be filed promptly.*

**CERTIFICATE OF SERVICE**

I certify that on December 8, 2015, a correct copy of the foregoing was served by fax and Certified Mail, Return Receipt Requested on the following counsel of record:

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